

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

RECEIVED

JUL 31 2013

CLERK, U.S. DISTRICT COURT
DISTRICT OF MONTANA
BILLINGS, MONTANA

JOEL T. STEINMETZ,

Plaintiff,

vs.

U.S. POSTAL SERVICE ("USPS"),
POSTMASTER GENERAL PATRICK R.
DONAHOE, and agents or participants,

Defendant.

CAUSE NUMBER:
CV 13-94-BLG-SEH-CSO

**MOTION FOR IMMEDIATE
INTERIM RELIEF**

DATE: July 31, 2013

MOTION FOR IMMEDIATE INTERIM RELIEF

Mr. Steinmetz seeks immediate interim relief in the amount of \$50,000. Additionally, Mr. Steinmetz seeks immediate reinstatement; all back pay and benefits; interests; a regular biweekly paycheck and any other appropriate relief.

Mr. Steinmetz was not removed for any charge against him; was not removed for cause; was not removed for unacceptable performance; and was not removed for the efficiency of service.

Mr. Steinmetz was not provided a proposed removal notice but rather, was just removed without being provided due process rights and then required to go through the agency's administrative remedy processes without any property interest, that is, without continued employment or continued pay.

In *Stone v. FDIC*, No. 98-3012 (June 11, 1999), the U.S. Court of Appeals for the Federal Circuit ("Fed. Cir.") held that before an agency can remove a tenured federal

employee and especially when that employee is a disabled person occupying an American with Disabilities Act ("ADA") accommodation position, the agency is required to follow special procedures and specifically provide that employee with a proposed removal notice identifying the charge and material in which the agency intends to rely upon (see attached Tab 12(a)). The agency is also required to continually employ and continue paying the employee while going through the administrative processes.

DATE: July 31, 2013


Joel T. Steinmetz

CERTIFICATE OF SERVICE

I, JOEL T. STEINMETZ, do hereby certify that this MOTION FOR IMMEDIATE INTERIM RELIEF, before this court, was (were) served on the following entities in the following manner:

1. Hand-delivered

U.S. District Court Clerk
James F. Battin Courthouse
2601 2nd Avenue North, Suite 1200
Billings, MT 59101

2. Certified U.S. Mail
7012 0470 0000 8789 0470

U.S. Postal Service
Hon. Patrick R. Donahoe
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

DATE: July 31, 2013


Joel T. Steinmetz

AFFIDAVIT OF JOEL T. STEINMETZ

I, JOEL T. STEINMETZ, affirm under penalty of law (perjury) that the forgoing is true, correct, and to the best of my ability.

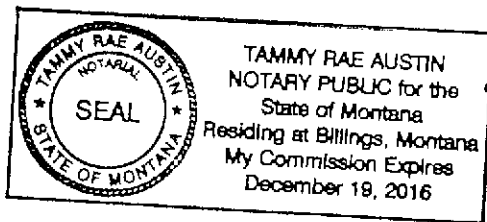
DATE: 07/31/2013

Joel T. Steinmetz
Joel T. Steinmetz

STATE OF MONTANA

City / County of Yellowstone

On this 31 day of July, 2013, before me, a Notary Public for the State of Montana, personally appeared Joel Steinmetz, known to me to be the person whose name is subscribed to the within instrument and acknowledge to me that he/she executed the same.



Tammy Rae Austin
Notary Public for the State of Montana

Residing at Billings

My Commission expires Dec 19, 2016